

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,406

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare closing her food stamps and denying her application for medicaid. The issue is whether the income and resources of the petitioner's husband must be counted in determining the petitioner's eligibility under these programs.

FINDINGS OF FACT

The facts are not in dispute. The petitioner is sixty-six years old. Prior to this year, she lived alone and received food stamps and medicaid based solely on her limited income and resources. The petitioner was married

in December, 1992. Her husband has considerable income, but the petitioner and he keep their finances separate and have agreed to be responsible for their own expenses. However, when the Department next reviewed the petitioner's case it determined that her husband's income had to be deemed available to her, making her ineligible for both food stamps and medicaid.

The petitioner does not dispute the amount of income the Department attributed to her and her husband. Her disagreement is with the policy that requires that her husband's income be taken into account in determining her eligibility for benefits.

ORDER

The Department's decision is affirmed.

REASONS

Medicaid Manual § M221 contains the following provision:

In determining the financial eligibility of an individual or a couple, the income and resources of spouses, with certain limits, must be counted as available to the applicant(s) if they are living together in their own home or in the household of another.

The food stamp regulations also require "spouses" who live together to be considered as one "household", with the income and resources of both household members being counted to determine the household's eligibility. F.S.M. §§ 273.1(a)(2)(i)(A), 273.8(c), and 273.9(b).

Unfortunately for the petitioner, neither program gives any consideration to individuals who, in fact, maintain separate finances from the spouse with whom they live. The petitioner was advised at the hearing that the Department and the board are bound by the federal regulations that govern eligibility for these programs, and she appeared to understand these constraints. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 19, and Food Stamp Fair Hearing Rule No. 17. She was advised to promptly reapply for benefits if either her financial or marital status should change.

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